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KX Acquisition LP

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FEDERAL COMMUNICATIONS COMMUNICATION OF THE SECRETARY

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March 12, 1993

Office of the Secretary Federal Communications Commission 1919 M Street, N.W. Washington D.C. 20554

Re: Comments on MM Docket No. 93-8
In the matter of Implementation of Section 4(g) of the Cable Television Consumer Protection Act of 1992.
Home Shopping Station Issues.

Dear Office of the Secretary:

This document constitutes the comments submitted by KX Acquisition LP, licensee of KXLI-TV-41, St. Cloud, Minnesota and KXLT-TV-47, Rochester, Minnesota relative to the Federal Communications Commission's Notice Of Proposed Rulemaking addressing the Home Shopping Station Issues as they relate to the Cable Television Consumer Protection Act of 1992.

I. OVERVIEW

KX Acquisition LP strongly advocates the implementation of regulations that will facilitate cable carriage of stations that are "predominantly utilized for the transmission of sales presentations or program length commercials". Neither KXLI nor KXLT would be broadcasting today if it was not for the sales presentation programming provided them by the Home Shopping Network (HSN). The Federal Communications Commission's (FCC) implementation of regulations that will facilitate cable carriage of

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Illinois. KXLI began broadcasting on November 24, 1982. Initially KXLI was programmed as a typical independent UHF station (i.e. recently syndicated popular series stripped Monday through Friday and movies). Shortly after operations began KXLI initiated a local news program at 10:00 PM CT to compete against the three Minneapolis-St.Paul network affilitates' metro news programs. In addition, KXLI launched a weekly local public affairs program called "Tri-County Journal". In 1985 the Continental Bank of Illinois went into receivership and was taken over by the Federal Deposit Insurance Corporation and all additional funding pledges committed to KXLI/KXLT were terminated. In addition to this financial problem KXLI determined it was at a severe disadvantage competing against the six commercial stations licensed to Minneapolis-St.Paul (Twin Cities) in four areas:

First, the commercial stations licensed to Minneapolis-St.Paul put extreme pressure on the programming syndicators not to sell any programming to KXLI that was already sold to a Minneapolis-St.Paul station because KXLI's signal covered "A LARGE PORTION" of the greater Twin Cities metro area. Even though the FCC classified St. Cloud, Minnesota as a separate market for territorial exclusivity (i.e. main KXLI studio located more than 35 miles [actually 60 miles] from the FCC Minneapolis/St.Paul reference point as listed in section 76.53 of the FCC's Rules & Regulations) it did not protect KXLI from being denied access to syndicated programming that was sold or pledged to the commercial stations licensed to Minneapolis-St.Paul. These commercial stations were very effective in convincing the programming syndicators KXLI was exploiting a technical loophole in the FCC Rules & Regulations in attempting to obtain popular programming they already had under contract.

Second, these same stations put extreme pressure on the TV advertisers not to advertise on KXLI because KXLI's signal covered only "A SMALL PORTION" of the greater Twin Cities metro market. Again, these commercial stations were very effective in convincing the TV advertisers that KXLI's signal could not reach half of the TV households in the greater Twin Cites metro area.

Third, the viewers in KXLI's immediate signal range, even in KXLI's city of license, St. Cloud, overwhelmingly preferred the metro news of the three network affiliates from Minneapolis/St.Paul over the KXLI local news, even though the KXLI news program focused heavily on issues and events within St. Cloud and the immediate vicinity.

Fourth, as the quality of KXLI programming decreased, caused by the financial and syndicator problems previously mentioned, KXLI found itself being dropped by various cable systems which further reduced KXLI's potential viewer universe below that of the other stations serving the greater Twin Cities metro area.

Unable to overcome these problems and the funding shortfall caused by

the demise of the Continental Bank, KXLI's founder sold the stations in mid 1987. The new owners committed more resources to make KXLI a viable TV station. Construction of KXLI's satellite station KXLT-TV-47 licensed to Rochester was completed and KXLT began broadcasting August 10, 1987. The new ownership acquired the broadcast rights of the National Hockey League's Minnesota North Stars. KXLI and KXLT simulcast their first North Star hockey game October 1, 1987. KXLI's and KXLT's carriage of the Minnesota North Stars resulted in KXLI being reinstated on all cable systems serving the greater Twin Cities metro area and KXLT was added to all cable systems in the Rochester area. In addition a new entertainment programming format called "TV Heaven" was launched on April 1, 1988. This new format provided a means to package the older programming the syndicators were willing to sell KXLI/KXLT. These efforts increased KXLI/KXLT's ratings and share and in turn advertising revenue but not to the level necessary for the stations to operate at break-even.

Another blow to KXLI's viability was the result of the FCC allowing the CBS (WCCO) and ABC (KSTP) network affiliates licensed to Minneapolis-St.Paul to acquire their respective network affiliates in Alexandria, Minnesota. On January 1, 1988, Nielsen and Arbitron collapsed the Alexandria ADI/DMA market into the Twin Cities ADI/DMA market which left KXLI licensed to St. Cloud, Minnesota, an island surrounded by Twin Cities stations and their satellites.

In mid 1988, KXLI/KXLT conducted a field strength measurement study that confirmed KXLI's signal was strong enough to be received by most TV receivers in the greater Twin Cities metro area. However, since all eight stations (6 commercial and 2 educational) licensed to Minneapolis-St.Paul transmit from one antenna farm located in Shoreview, Minnesota most home antennas were permanently installed facing Shoreview (Northeast). This significantly reduced the TV viewer's ability to receive a minimum quality KXLI signal transmitted from the Northwest. The result of these difficulties was KXLI/KXLT was unable to continue in business and went off the air December 15, 1988.

KXLI/KXLT remained dark for almost two years. On September 29, 1990, they returned to the air as STAR Television Network affiliates. STAR's life as a tv network was short-lived. To insure KXLI/KXLT would not go dark again they entered into a programming arrangment with a station licensed to Minneapolis-St.Paul on November 3, 1990. During this phase

has almost 41,000 members in the KXLI/KXLT viewing area. KXLI/KXLT has no reservations in stating that if it wasn't for the Home Shopping Network they would not be broadcasting today.

III. OVERVIEW OF THE KXLI & KXLT ADI/DMA MARKETS

- A. BROADCAST OVERVIEW
 - 1. KXLI

The Minneapolis-St.Paul television market, as defined by both Arbitron and Nielsen rating services, is the thirteenth largest market containing 1.400.500 TV households. The market stretches three hundred and sixty

As mentioned in the History section the geographic boundaries of the Minneapolis-St.Paul ADI/DMA significantly changed in the fall of 1987 when the FCC approved the purchase of KCMT, (Ch.7) Alexandria and it's satellite KNMT, (Ch.12) Walker by WCCO, (Ch.4) Minneapolis-St.Paul. Shortly thereafter, both KCMT and KNMT were converted to satellites of WCCO, and this in turn caused the dissolution of the Alexandria ADI/DMA and the incorporation of its approximate sixty thousand (60,000) TV households into the Minneapolis-St.Paul ADI/DMA on January 1, 1988. As listed in the previous chart KSTP, (Ch.5) Minneapolis-St.Paul also operates full power satellites in Alexandria KSAX, (Ch.42) and KRWF, (Ch.43) in Redwood Falls.

2. KXLT

The Rochester/Austin/Mason City television market, as defined by both Arbitron and Nielsen rating services, is the 147th ranked market containing 140,000 TV households. KXLT's Grade B signal covers approximately 50,000 of the TV households in the market providing a coverage of 36%. The Rochester metro area (i.e. Olmsted county) contains 42,000 TV households of which KXLT's Grade B signal covers 100%. (See attached exhibit C.)

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2. KXLT

Cable penetration in the Rochester/Austin/Mason City ADI/DMA is currently estimated at 59% by the Arbitron and Nielsen rating services, 83,000 cable households out of a universe of 140,000 TV households. This is somewhat misleading because 80%+ of the TV households in the ADI/DMA are concentrated within the immediate vicinity of the three primary towns the ADI/DMA is named after. Cable penetration within KXLT's Grade B signal range is closer to 85%.

3. MUST CARRY REINSTATEMENT IMPACT STUDY

As stated in the History section KXLI/KXLT attained maximum cable carriage when they had the broadcast rights of the Minnesota North Stars hockey games in 1987 & 1988. Now that KXLI/KXLT are Home Shopping Network affiliates they have either been denied reinstatement or dropped from carriage by every cable system in their respective markets.

Due to the possibility of Must Carry being reinstated for KXLI/KXLT as part of Cable Television Consumer Protection Act of 1992, KXLI/KXLT conducted a study using the 1993 TELEVISION & CABLE FACTBOOK. This study indicates KXLI/KXLT would be reinstated on approximately 91 cable systems. These 91 cable systems pass 1,008,000 TV households and currently have 514,500 subscribers. Assuming the vast majority of cable subscribers do not have or use A/B switches and if Must Carry is afforded KXLI/KXLT it is estimated the KXLI potential viewing audience would double. Likewise, since cable subscribers are 85% of homes passed in Olmsted county KXLT's potential viewing audience would increase fivefold.

Also, an analysis of the cable systems that reported their respective channel capacity and channels "not used" data to the TELEVISION & CABLE

and services offered by the Home Shopping Network and KXLI/KXLT should be granted the right to offer their programming choice to ALL viewers in the markets they are licensed to serve. This point is most clearly evident when one understands that, as a practical matter, KXLT is unavailable to 85% of the TV viewers in its own city of license who are cable subscribers.

IV. PUBLIC SERVICE PROGRAMMING

A. OVERVIEW

KXLI/KXLT has a long history of public service programming. As stated, KXLI had its own local nightly news program and weekly public affairs program for over three years. When KXLT became operational, the nightly news program and the weekly public affairs programs were broadened to include issues and events that were of interest to the Rochester viewers. These programs were eventually dropped due to lack of viewer interest. They were replaced with an ongoing Community Bulletin Board and a Community Calendar service which were aired throughout the broadcast day and updated daily. For many years KXLI broadcast live the parade which is the highlight of St. Cloud's summer festival,

B. LOCAL PUBLIC SERVICE PROGRAMMING

KXLI/KXLT currently airs three programs that are locally produced and focus on local viewership. "Speak The Word" is an half hour Christian program produced by a non-denominational church in Golden Valley, Minnesota, that solicits viewers to visit their church; it airs twice each Sunday. "Emmanuel Christian Center" is a one and a half hour church service aired on a one week tape delay basis each Sunday morning. If the reinstatement of Must Carry occurs, this program would be aired live. The last is an hour program KXLI/KXLT airs Monday through Friday that provides information about cultural, educational, and recreational activities throughout Minnesota. The format of this last program is being changed to include segments on communities throughout the state provided by and/or produced in conjunction with their respective Chambers of Commerce in fulfillment of the theme "Discover Minnesota".

	activities throughout Minnesota. The format of this last program is being changed to include segments on communities throughout the state provided by and/or produced in conjunction with their respective Chambers of Commerce in fulfillment of the theme "Discover Minnesota".
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V. COMMUNITY SUPPORT FOR KXLI/KXLT

The best measure of community support is the extent of direct contact a station receives from its viewers. KXLI/KXLT as HSN affiliates requires this direct contact or KXLI/KXLT ceases to exist. As mentioned previously the Home Shopping Network currently has 41,000 club members in the KXLI/KXLT viewing area. They became members by watching HSN programming on our stations and ordering merchandise. Most TV stations are unable to identify directly who is watching their programming but KXLI/KXLT can. In fact, we know where our viewers are county by county and zip code by zip code. The typical avenues of learning your viewer opinions of your program offering is through phone calls and letters. When technical problems occur and the stations go off the air, the phone rings off the hook - "WHERE IS HOME SHOPPING?" And vest the stations do receive complaints they usually are

	phone calls and letters. When technical problems occur and the stations go off the air, the phone rings off the hook - "WHERE IS HOME SHOPPING?" And ves. the stations do receive complaints, they usually are
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- * Sponsorship of Goodwill, United Way, and Easter Seal events and donation drives.
- * Sponsored and televised an annual "Toy Give Away" program with a local store at Christmas.
- * Donated broadcast equipment and used tapes to area schools churches, and small businesses. In fact, KXLI donated a 2 inch tape system and tapes to the local cable system that now refuses to carry KXLI in its own city of license.
- * Loaned equipment and personnel at no charge to local schools and churches to assist in their drama productions.
- * Provided station tours to local schools and children's organizations. In fact, a Cub Scout group is scheduled for this coming March 30.

VII. CONCLUSION

KXLI/KXLT wholeheartedly support the inclusion of "stations that are predominantly utilized for the transmission of sales presentations or program length commercials" under the pending Must Carry provisions of the Cable Television Consumer Protection Act of 1992. Philosophically KXLI/KXLT advocates minimum government regulations in a free market society. However, since national communication systems by definition need to be a regulated industry, it behooves the regulators to establish rules and regulations that facilitate a "level playing field" for all participants.

KXLI/KXLT support the premise that the viewers have the right to determine WHAT programming they wish to view and the FCC should not attempt to regulate programming content beyond that which is not in the public interest.

The denial of cable carriage to stations that predominantly program sales presentations has far greater negative ramifications for said stations than initially meets the eye as detailed previously in these comments. Specifically for KXLI/KXLT they probably would go off the air again but this time permanently. Lack of cable carriage is the primary factor that local newspapers give for refusing to print KXLI/KXLT's program schedule. In fact, one of the sports articles in the Minneapolis newspaper on March 5, 1993, talked about when the Minnesota North Stars were once broadcast by KXLI "on the since demised Ch. 41". Because KXLI is not offered by his cable system nor listed by his newspaper he thinks KXLI is no longer on the air.

KXLI/KXLT respectively requests the commission to provide KXLI/KXLT the opportunity to compete against the other broadcast stations in their respective markets on an equal basis.

Sincerely

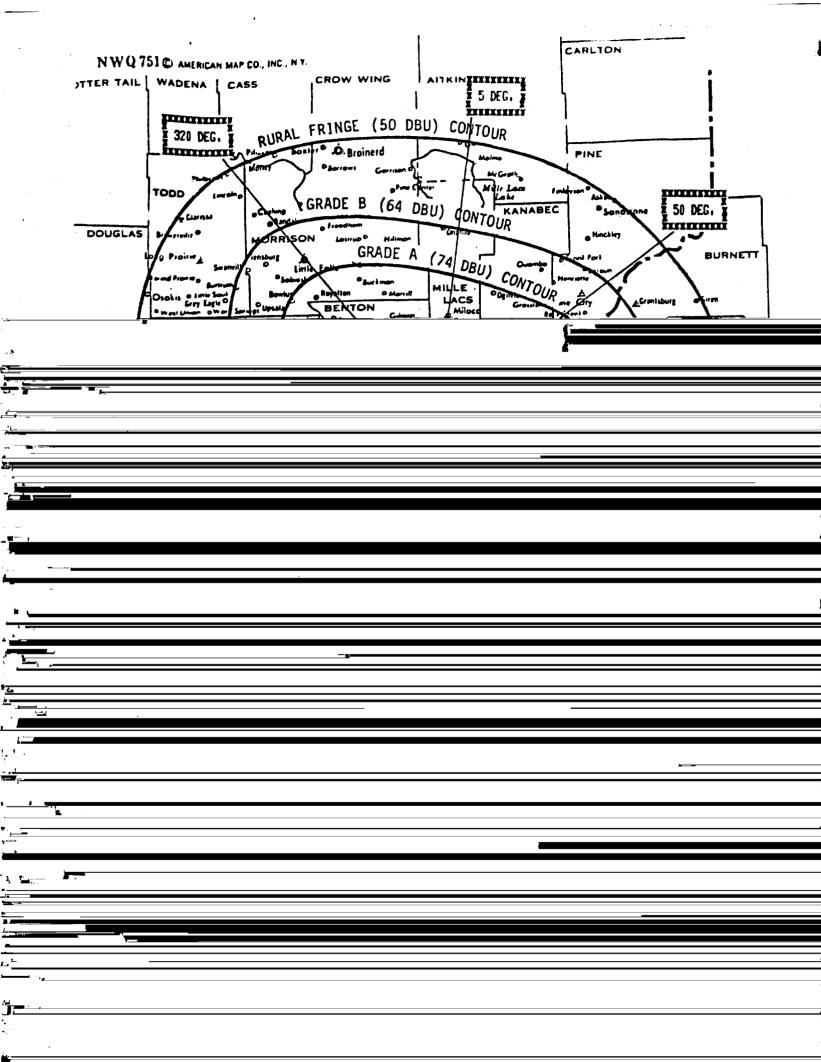
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KX Acquisition LP

22727 176TH STREET BIG LAKE, MN 55309

PHONE 612-263-8666 FX 263-6600

EXHIBIT "D"

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Quarterly List
of
Community Issues
and
Public Service Announcements

In an ongoing effort to serve the public interest, KXLI/KXLT-TV offers the following to respond to the needs of the KXLI/KXLT-TV viewing audience. Attached is a list of the Station's public interest programming for the period October 31, 1992 to December 31, 1992.

Note:

Identical copies for KXLI and KXLT-TV. Following set for KXLI only for Exhibit purposes.

Summary of Efforts Addressed to Children's Educational and Informational Programming Needs

Television Station KYII

Calendar Quarter Oct 1 - De 31 1993

SERVICE TO CHILDREN IN OVERALL PROGRAMMING

Listed below is some programming broadcast on the station during the calendar quarter that was not specifically designed for children but through which the station nonetheless served the educational and informational needs of children:

Date	Time	Duration	Title and Brief Description
Voxic	<u>000</u>	<u>:30</u> min.	"Garfield Hollowers Sofety"
			Gira bosic Hallowern Sopty
			tipo.
Your	36.0	130 min.	"School Bus Souty" - Rules
			and tips to Sortifue and
			neund the bus
Vania	· <u>`)</u>	30 min.	"Cuit Society". How toget
			Comprete information on Sope
			Cribo. Paints out Dome dangers.
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Yanı	<u>oua</u>	<u>:30</u> min.	Apricana matrix Amount and. Thisping Couldren PSA'S Topomation and photographs
	9:30P		"Bring them Home Knesica" Gives injuration on unissing
13/25	<u>10:30</u> P	<u>30</u> min.	Consider throughout the USA J Tracketing clocal Children Species Wetterling, Christopher
-		min.	Encouraged people to Call in 4 the hore any information
	·	min.	reckerding any ordissing
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and Informational Programming Needs	
Television Station KXLI	
Calendar Quarter Oct 1 - Dec 31 19 90	
PROGRAMMING SPECIFICALLY DESIGNED FOR CHILDREN	
Listed below is some programming broadcast on the station during the calendar quarter that was specifically designed to serve the educational and informational needs of children 16 years of age and younger:	٠
Date Time Duration Title and Brief Description	
Story of Joseph and this	
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pace	Time	Duration	Title and Brief Description
19/11	1 <u>0000</u> A	<u>30</u> min.	"Pet Programs - Had Degranto teaching about boming
10/18	F <u>1321</u> P	<u>30</u> min.	Digions and clarify fions. "Superbook" - Battle of Brown. Caleb wan the land that
1418	<u>9:30</u> 11	<u>30</u> min.	God wood promised with
10/18	1 <u>0:00</u> 1	30 min.	Mon Lungian King Snaker Guytando. "Pet Playhouse" - Tourph Obout Lyne Disease. Dury Teams
10/35	9 <u>00</u> 9	30 min.	and Teething Pets. "Superbook"- Frightnesset of Gods Promise, Sol broome.
14/35	9:30A	<u>30</u> min.	King of Ioval. "On Gimo Minimal Clinic" - Tought about boot Dog toup, day
10/25	1 <u>0:00</u> A	<u>30</u> min.	<u>wasines and Montulain modication</u> . <u>Ret Playnouse" - Serments</u> teaching about Squirela.
"/, '	9 <u>:00</u> A	<u>30</u> min.	Supuback" - King David dies and Solomon Broomes King of Jareal.

Date	Time	Duration	Title and Brief Description
11/1	934	30 min.	" Dr. Jims Minnal Clinic" - Taught
			about Bird Care, Cats Mitter
			boxes and Lyne disease Coccure
11/1	10:00A	<u>30</u> min.	" Pet Playhouse" - Segments on
			Brockes Chipping birds winco.
			Fix Newto and Guinea Pico
11/8	9:00A	30 min.	"Superbook" - Tourset the
			cleason of Mothis Ack.
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178	4: 30A	30 min.	" Dr. Amo Moumal Clinic" -
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11/2	10.553		an Animal Regerial Clinic
18	10:00H	OC min.	"Pet Pearpouse" - Focus of
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11/10	G:@\\Q	3/)	tion Care.
112	10011	min.	"Superbook" - Tought the
			Bible Hoyco Mosco: parting the Red Sia.
11/15	9:30A	30 min.	"D. Jims Animal Clinic" - Taxant
	5	and all the	Obout Bird Cares, Pet Nicoltin
ş			insuance and puppy training.
11/15	10 00A	30 min.	" Pet Penypouse" - Seconcrito
			on Tyurias Spiney Orchins.
			Smaller and proper Bird foods.
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Duration Title and Brief Description "/20 9 COA 30 min." Superbook" - The story of Healing people willingen water, eta. "/22 9:30A 30 min. " Dr. Limo Animal Clinic"- Focused on Feline Luternia and hand feeding binds. "/20 10:00A 30 min. Pet Playpouse" - Had Deprents on teaching your doctricks and on handing Diggons. "/29 7:00A 30 min. "Ret Playause"- Tratriduced Children to Shelties, Groupourds and King Snakes. 1/29 10:00A 30 min. "Superbook" - Tought the Bible Otony 9. The First King King Samuel. 12/6 7:00A 30 min. "Pet Playpoure"-Tourist about Fish Smales and

Duration Title and Brief Description 12/13 10:00A 30 min. "Superbook" - Josephis bidhenor Come to him as king for thelp after their had obused him.

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